

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

GERDA ZINNER, ET AL.,

Plaintiffs,

v.

STATE OF TENNESSEE, ET AL.

Defendants.

)
)
)
)
)
)
)
)
)
)

Civil Action No. 3:23-cv-00535

Judge Aleta A. Trauger

**STATE DEFENDANTS' JOINT MOTION
TO DISMISS FIRST AMENDED COMPLAINT**

Defendants State of Tennessee; the State Insurance Committee and its Members, in their official capacities (Jim Bryson, David Lillard, Jason Mumpower, Carter Lawrence, Juan Williams, Bo Watson, Patsy Hazelwood, Michelle Consiglio-Young, Judi Knecht, Terry Carroll, and Holly Girgies); the Local Education Insurance Committee and its Members, in their official capacities (Jim Bryson, David Lillard, Jason Mumpower, Carter Lawrence, Maryanne Durski, Kristy Baddour, Erin Johnson, and Jennifer White); the Tennessee Department of Finance and Administration (“DFA”) and Commissioner Jim Bryson, in his official capacity; the Tennessee Department of Environment and Conservation; and the University of Tennessee (“UT”) (collectively “State Defendants”), by and through counsel, and pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, respectfully request that Plaintiffs’ Complaint against them be dismissed.

As discussed more fully in Defendants’ separate Memorandum of Law, Plaintiffs fail to state a claim upon which relief can be granted as to their claims against each of these Defendants under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution; Title VII; and Title IX.

Certain claims against these Defendants are also barred on procedural grounds. Zinner lacks standing to assert any claims against the University of Tennessee (“UT”) due to the absence of causation or redressability. None of the State Defendants are considered VanNess’ employer under Title VII. And Plaintiffs’ claims under Title VII and Title IX are untimely.

Accordingly, these Defendants respectfully request the Court to grant their motion and to dismiss each of Plaintiffs’ claims against them with prejudice as a matter of law.

Dated: December 6, 2023

Respectfully submitted,

/s/ Steven J. Griffin

Steven J. Griffin (Bar No. 40708)
Senior Counsel for Strategic Litigation
Ryan N. Henry (Bar No. 40028)
Reed N. Smith (Bar No. 40059)
Brooke A. Huppenthal (Bar No. 40276)
Assistant Attorneys General
OFFICE OF THE TENNESSEE ATTORNEY
GENERAL & REPORTER
P.O. Box 20207
Nashville, TN 37202-0207
Phone: 615-741-9598
steven.griffin@ag.tn.gov
ryan.henry@ag.tn.gov
reed.smith@ag.tn.gov
brooke.huppenthal@ag.tn.gov

Counsel for State Defendants

CERTIFICATE OF SERVICE

I hereby certify that on December 6, 2023, the undersigned filed the foregoing document using the Court's Electronic Court-Filing system, which sent notice of filing to the following counsel of record:

COUNSEL OF RECORD	PARTY REPRESENTED
<p>Ezra Cukor Z. Gabriel Arkles Shayna Medley Transgender Legal Defense and Education Fund, Inc. 520 8th Ave, Ste. 2204 New York, NY 10018 Telephone: (646) 862-9396 Facsimile: (646) 993-1686 ecukor@transgenderlegal.org garkles@transgenderlegal.org smedley@transgenderlegal.org</p> <p>J. Scott Hickman (No. 17407) Sherrard Roe Voigt & Harbison, PLC 150 3rd Ave. South, Suite 1100 Nashville, TN 37201 Telephone: (615) 742-4200 Facsimile: (615) 742-4539 shickan@srvhlaw.com</p> <p>Phillip F. Cramer (No. 20697) Sperling and Slater, LLC 150 3rd Ave. South, Suite 1100 Nashville, TN 37201 Telephone: (615) 742-4535 pcramer@sperling-law.com</p> <p>Darren Teshima Udit Sood Covington & Burling, LLP Salesforce Tower 415 Mission Street, Suite 5400 San Francisco, California 94105-2533 Telephone: (415) 591-6000 Facsimile: (415) 591-6091 DTeshima@cov.com USood@cov.com</p> <p>Suzan F. Charlton</p>	<p>Counsel for Plaintiffs</p>

<p>Natalie Ritchie Elaine H. Nguyen Covington & Burling, LLP One CityCenter 850 Tenth Street, NW Washington, D.C. 20001-4956 Telephone: (202) 662-6000 Facsimile: (202) 778-5465 scharlton@cov.com nritchie@cov.com enguyen@cov.com</p> <p>James A. Holloway Covington & Burling, LLP 1999 Avenue of the Stars, Suite 3500 Los Angeles, CA 90067-4643 Telephone: (424) 332-4800 Facsimile: (424) 332-4749 jholloway@cov.com</p>	
<p>David M. Sanders (Bar No. 016885) Jessica Jernigan-Johnson (Bar No. 032192) Knox County, Tennessee 400 W. Main St., Suite 612 City-County Building Knoxville, Tennessee 37902 Telephone: 865-215-3236 Facsimile: 865-215-2936 David.Sanders@knoxcounty.org Jessica.Johnson@knoxcounty.org</p>	<p>Counsel for Defendant Knox County Board of Education</p>
<p>Kimberly S. Veirs S. Jae Lim Ejaz H. Baluch, Jr. Jennifer M. Swedish United States Attorney's Office 719 Church Street, Suite 3300 Nashville, TN 37203 Telephone: (615) 736-5151 Kimberly.Veirs@usdoj.gov Jae.Lim@usdoj.gov Ejaz.Baluch@usdoj.gov Jennifer.Swedish@usdoj.gov</p>	<p>Counsel for Interested Party United States of America</p>

Respectfully submitted,

/s/ Steven J. Griffin

STEVEN J. GRIFFIN